Center for Immigration Studies

Backgrounder

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Immigration and Terrorism:

What Is to Be Done?

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Introduction

The nation's responses to the horrific attacks of September 11 will clearly have to be in many different areas, including military retaliation, freezing terrorist assets, diplomatic initiatives, improvements in intelligence gathering, and expanded security at airports, utilities, and other public places.

But one aspect of increased preparedness must not be overlooked — changes in immigration and border control. All 19 terrorists of September 11 were foreign citizens, 13 of whom appear to have entered the United States as tourists, business travelers, or students, while the entry of the other six cannot be accounted for. The perpetrators of previous terrorist acts were also from abroad, usually having entered legally, including Ramzi Yousef, mastermind of the first World Trade Center bombing in 1993; Mir Amal Kasi, murderer of two CIA employees the same year; and Sheik Omar Abdel-Rahman, convicted in 1995 of plotting a terror campaign in New York.

While it is absolutely essential that we not scapegoat immigrants, especially Muslim immigrants, we also must not overlook the most obvious fact: the current terrorist threat to the United States comes almost exclusively from individuals who arrive from abroad. Thus, our immigration policy, including temporary and permanent visas issuance, border control, and efforts to deal with illegal immigration are all critical to reducing the chance of an attack in the future.

The front lines are at the border. Much has been written about how we are involved in a new kind of war. In this new kind of conflict, America's borders are a major theater of operations; the "home front" no longer has the metaphorical meaning of past wars but is literally true. This is because the primary weapons of our enemies are not tanks or aircraft carriers or even commercial airliners, but rather the terrorists themselves — thus keeping the terrorists out or apprehending them after they get in is going to be an indispensable element of victory. The simple fact is that if the terrorists can't enter the country, they won't be able to commit an attack on American soil.

The president implicitly acknowledged this fact in announcing the creation of a new Office of Homeland Security, which "will lead, oversee, and coordinate a comprehensive national strategy to safeguard our country against terrorism." In a very real sense, we already have a homeland security agency — it's called the Immigration and Naturalization Service (INS). The precursor of the INS was established in the Treasury Department in 1891 and moved to the new Department of Commerce and Labor in 1903. But in 1940, as war neared, it was moved to the Department of Justice. As Cornell professor Vernon Briggs has written, the move was made because "It was feared that immigration would become a way of entry for enemy spies and saboteurs," and President Roosevelt himself said the change was made solely for reasons of "national safety." A history of the INS describes its war-related duties: "Recording and fingerprinting every alien in the United States through the Alien Registration Program; ... constant guard of national borders by the Border Patrol; record checks related to security clearances for immigrant defense workers..."

Who's Against Strong Borders?

Most Americans understand that our border is a critical tool for protecting America's national interests ("border" being any place where foreign citizens enter the United States). A Zogby International poll taken in the wake of the attacks found that the overwhelming majority of Americans,

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across all races, regions, incomes, and political beliefs blamed lax border control and screening of immigrants for contributing to the attacks and believed that improved immigration enforcement would reduce the likelihood of future atrocities. (The poll results are available at www.cis.org/articles/2001/terrorpoll.html.) There can be little doubt that greatly stepped-up efforts to control the border would be met with overwhelming support by the American people.

Border-as-obstacle. Unfortunately, prior to September 11, a portion of America's elite had come to see our borders as little more than an irritant, an obstacle to be overcome by travelers and businesses. This border-as-obstacle view is found both on the political right and left. Perhaps most notorious among the cheerleaders for open borders have been libertarian utopians such as the Cato Institute and *The Wall Street Journal*. While the *Journal*'s trenchant opinion pages have often contributed to the cause of American liberty, they have also repeatedly called for a five-word amendment to the Constitution: "There shall be open borders." In a bitter irony, the paper's headquarters is located across from the World Trade Center site and was severely damaged on September 11.

In an ill-timed newsletter from the Cato Institute, prepared before the attacks but received in the mail afterwards, Cato's President William Niskanen wrote "We support relaxing the controls on immigration." But shortly after the attacks, Stephen Moore, a senior fellow at Cato and president of the Club for Growth, recommended that advocates of open immigration "lay low and don't talk about it a lot."

Few opponents of effective borders are as explicit, but they have been remarkably effective in blocking efforts to improve immigration enforcement. Business interests big and small, for instance, have sought to weaken borders to increase access to low-cost labor and facilitate the movement of their personnel. And the leadership of the AFL-CIO appears so desperate to find new members that last year it called for both an amnesty for all illegal aliens and an end to the ban on hiring future illegals, all the while claiming to be against open borders.

Since the September 11 attacks, advocates of loose border controls have launched an effort to deny the obvious. Cecilia Munoz of the National Council of La Raza gamely averred that "There's no relationship between immigration and terrorism." Jeanne Butterfield, director of the American Immigration Lawyers Association and former director of the Palestine Solidarity Committee, echoed this denial of reality: "I don't think the events of last week can be attributed to the failure of our immigration laws."

If we take the physical safety of our people seriously, we cannot continue to allow idealogues and interest groups to hobble our ability to manage our borders. What, then, is to be done? Our mechanisms for controlling and monitoring the movement of foreign citizens across our borders can be improved in three places: overseas, at the border, and inside the country.

Homeland Security Begins Abroad

Entry to the United States is not a right, but a privilege, granted exclusively at the discretion of the American people. For the most part that discretion is exercised by members of the State Department's Bureau of Consular Affairs, often referred to as the Consular Service. Among their other duties, these men and women make the all-important decisions about who gets a visa to enter the United States, making them the forward guard of homeland defense — America's other Border Patrol.

Unfortunately, the Consular Service has neither the manpower, nor the tools to fulfill this heavy responsibility properly. Most importantly, management of the Consular Service offers distorted incentives to officers in the field. Mary Ryan, who became Assistant Secretary of State for Consular Affairs in 1993 and is in charge of visa issuance and the other consular responsibilities, has overseen genuine technical improvements in the issuing of visas. These changes have included making visas machine-readable and more difficult to forge than in the past. Also, the "watch list" of people who should not be granted visas is now computerized, rather than the old microfiche-based system in place until just a few years ago.

Who is the customer? But along with improvements, the Consular Service has also adopted a culture of service rather than scrutiny, in which visa officers are expected to consider the visa applicants to be their customers, rather than their real customers — the American people. Thus, satisfying the "customer" — the foreign visa applicant — has become one of the most important goals, leading to pressure to speed processing and approve marginal applications. As one former Foreign Service officer has written, "State Department procedures call for supervisory review of refusals, but not issuances — thus, relatively inexperienced junior officers are trusted to issue visas but are second-guessed on refusals." (Former Foreign Service officer Nikolai Wenzel describes conditions at consular posts in a Center for Immigration Studies *Backgrounder*, which is

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available on line at www.cis.org/articles/2000/back800.html.) Visa officers are judged by the number of interviews conducted and politeness to applicants rather than the thoroughness of screening applicants.

This is especially ironic given that the law requires precisely the opposite approach, placing the burden of proof on the applicant for a temporary non-immigrant visa: With a few exceptions, "every alien … shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officer at the time of application for admission, that he is entitled to nonimmigrant status.… ."

Visa processing vs. diplomacy. Responsibility for issuing visas fell to the State Department because it was the only agency with offices overseas, where the demand was. But it is difficult to imagine two less complementary functions than diplomacy and immigration enforcement. The diplomat's goal of promoting cooperation and compromise is often in conflict with the visa officer's goal of exposing fraud and ensuring compliance with the law. This systemic mismatch is likely to persist regardless of management changes and may only be remedied by transferring all visa-issuing responsibilities overseas to the INS or perhaps a new "Visa Corps."

A new, free-standing visa issuing agency would have offices in consulates around the world, and would issue visas and be answerable not to the local ambassador, but to the head of this new agency or perhaps even the head of homeland security. If INS was to take control of visa processing overseas, then the Visa Corps could be answerable to INS headquarters in Washington.

More resources are needed. Administrative changes, of course, won't matter much if there aren't enough people to handle the work. The Bureau of Consular Affairs has only 900 Foreign Service officers overseas, assisted by 2,500 foreign nationals, and the demand for visas to visit the United States is enormous. Last year, the State Department issued 7.1 million non-immigrant visas, up 15 percent from 1995, and more than triple the number issued 30 years ago, when the majority of visas were issued to citizens of countries (mainly Western Europe and Japan) which now no longer need visas when arriving on short visits.

Because of this ballooning workload, all junior Foreign Service officers are required to adjudicate visa applications for a year or more, turning this profound responsibility into a dreaded rite of passage for rookies. Consular officers often have no more than a few minutes to assess each application, and are bombarded by the same fabrications hundreds of times per week, month after month. While there are many engaged and conscientious visa officers, many doing their obligatory service would rather be writing political reports or negotiating with Foreign Ministry officials. What's more, visa responsibilities are held in such low regard institutionally that consular ranks are often filled by unemployed spouses of local Foreign Service officers.

If visa processing were the career choice of all visa officers, part of an agency devoted solely to that task, those who would work in this area would be able to hone their skills at spotting fraud or security risks. Visa officers need to be highly trained professionals, specializing in their function, respected by their agency, and insulated, to the extent possible, from political pressure. Such a system would be an invaluable asset in making our nation safer from terrorism.

Watch lists and biometric identification. But even with adjusted incentives and adequate personnel, successfully handling such an enormous workload, and keeping out those who would do us harm, requires the right tools. The primary tool in flagging terrorists is the Consular Lookout and Support System, or CLASS, a "watch list" of roughly 5.5 million people who may be inadmissable. Obviously, effective intelligence is required for the watch list to be valuable, but based as it currently is solely on names, rather than also using a biometric identifier like a fingerprint, means that many possible terrorists might slip through. While fingerprints will never be available on most of those on the list, many persons on the watch list have been arrested or detained by authorities in other countries or on previous stays in the United States. To the extent possible we need to obtain these fingerprints and make them part of the watch list database.

To be most effective, the visa process should start with each applicant's fingerprints being digitally scanned into an integrated system which can be accessed by everyone involved in the immigration process — overseas, at the border, and within the country. These fingerprints should be checked against the watch list. Ideally, visitors' fingerprints should be scanned again when they enter the country, and again when they leave. This wouldn't be cheap to establish, but the technology is already widely used; the Border Patrol has been scanning fingerprints of illegal aliens apprehended on the Mexican border for several years now.

Gathering applicant fingerprints and checking them when a person enters and leaves the country

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would serve many purposes: First, it would be a way of definitively determining that someone has entered the country and also that they have left when they are supposed to. Second, it would be a way of excluding those on the watch list for whom we have fingerprints. Third, it would establish identification, ensuring that the person issued the visa is the same person entering the country. Fourth, it would prevent individuals from going from consulate to consulate using different identities if they have been denied a visa at one location. Fifth, providing the U.S. government with fingerprints would by itself be a significant deterrent to would-be terrorists who certainly would be reluctant to give the government this information.

To the extent possible we need to put photos of suspected terrorists on the watch list as well. If we took a digital photo of every visa applicant and ran it through facial recognition software (which is already well developed), along with fingerprints for each applicant, we might also be able to identify suspected terrorists even if they apply for a visa using a false identity. While something like a facial recognition system would take time to implement, there are other simpler things we can do right away to make the list much more effective. The State Department, for instance, should be able to access the FBI criminal database, which it is not now able to do.

Exclude all enemies of America. With the right management, staffing, and technology, the process of screening those we want to keep out would be much more effective. A number of procedural and legal changes would also help. Visa officers should be empowered to deny visas to people who are clearly enemies of America, but who have not actually engaged in terrorism (as far as we know). Currently, the law makes it extremely difficult to turn down an applicant because of his "beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States." As the law now reads, keeping out a terrorist sympathizer, who publically organize demonstrations calling for the destruction of America or actively distributes Osama bin Laden videos, but who as far as we know, hasn't yet raised money for terrorist groups or planned out an assault, requires the Secretary of State to personally make the decision and then report each individual instance to Congress. As a result, few if any individuals are excluded based on their anti-American beliefs.

The State Department instructions to visa officers reinforces this forbearance regarding the opinions of foreign citizens abroad: "Advocating terrorism, through oral or written statements is usually not a sufficient ground for finding an applicant ineligible under INA 212(a)(3)(B). Only statements that directly further or abet the commission of a terrorist act may properly constitute a basis for denying a visa. Words uttered or written which do not meet this test, no matter how offensive they may be, would not result in a finding of ineligibility under INA 212(a)(3)(B). As an example, statements approving a specific terrorist act, and asserting that such acts should be repeated, do not render an applicant ineligible." (The complete document is on line at http://www.foia.state.gov/masterdocs/09fam/0940032N.pdf.)

We will not, of course, know the political beliefs of most applicants. However, just has we learn about the possible terrorist links of some individuals from friendly governments as well as our own intelligence, we will also learn of those who express strong anti-American views. These individuals should then be added to the watch list. Some may object to the idea of excluding people based only on their political beliefs or statements, but it is important to remember that getting a visa to come to America is a privilege, not a right, and it is only common sense to exclude those who advocate violence toward our country. This is especially true during a time of war when the only way for the terrorist to attack us on our own soil is if we allow them into the country. Moreover, being denied a visa does not prevent such a person from continuing to express his views — in his own country. One can only imagine the American public's reaction if it is revealed in the aftermath of another attack that the anti-American views of the terrorist were known and he was issued a visa anyway. It is simply irresponsible not exclude all such individuals.

More thorough screening for some countries. Additionally, citizens of those countries whose governments do not sponsor terrorism, but whose citizens have come here as terrorists (i.e., Egypt or Saudi Arabia) should have to pass a much higher bar for visa issuance, including a thorough security clearance (working with local authorities) and confirmation with universities of each student visa application (citizens of the few countries formally designated as sponsors of terrorism already undergo such checks). This should also apply to visa applicants born in these countries, but now holding other citizenship. Also, no visas should be issued to citizens of Middle Eastern countries at U.S. consulates outside their home countries because an American visa officer in Germany is less likely to be able to identify a problem applicant from Saudi Arabia than his counterpart based in Saudi Arabia.

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There is nothing unprecedented about such country-specific temporary visa policies; for instance, a person from Poland currently needs a visa to vacation in the United States, whereas a person from Japan does not, because Poles are more likely to remain illegally than are Japanese. It is true that these provisions apply only to temporary visas, but a much higher bar for both temporary and permanent visas for nationals from some countries is simply a logical extension of this kind of policy.

Exclude all Muslims? The fact that the terrorist attacks of September 11 were perpetrated by foreign-born Muslims may tempt some to support the elimination of visas for all Muslims or Middle Easterners in an effort to reduce or eliminate the foreign terrorist threat in the future. While more vigorous background checks for persons born in some countries makes sense and may result in a higher percentage being denied visas, efforts to exclude entire countries or religions should be resisted. Changes of this kind would harken back to immigration law prior to 1965, when the number of permanent residency visas was severely restricted for southern and eastern European countries, while immigration from Western Europe was much less restricted. Using religion or nationality as a basis for issuing visas is not only inconsistent with American values but may also anger Middle Eastern countries whose cooperation we very much need in the war on terrorism.

There may well be compelling national security or other reasons to reduce both temporary and permanent immigration, but changes should apply equally to all countries not just those in some parts of the world. Later in this paper is an exploration of some of the reasons why we may wish to reduce the overall level of immigration.

Selective enforcement of immigration law must also be avoided. For example, we should definitely not pursue visa overstayers who are from the Middle East more vigorously than those from other counties. Instead, we need to develop enforcement strategies that apply forcefully to all overstayers. By definition, all those who have overstayed their visas or entered the country without permission have broken the law and should be made to leave the country. Singling out one group for enforcement is not only unfair and un-American but it is probably unconstitutional as well.

Order at the Border

The next layer of protection is the border itself, which has two elements — "ports of entry," which are the points where people traveling by land, sea, or air enter the United States, and the stretches between those entry points. The first are staffed by Immigration and Customs inspectors, the second monitored by the Border Patrol and the Coast Guard.

The need for improvements at the ports of entry is dire. Last year there were more than 500 million entries at these legal entry points, mostly at land border-crossings and many of them commuters. Close to half of these entries are returning U.S. citizens, and others are border commuters, but the number of foreign visitors is still enormous. In 1999, there were more than 31 million "non-immigrant" admissions (not counting Canadians and Mexicans on short visits), almost *triple* the number of 20 years ago. These were mostly tourists (24 million) and business travelers (4.5 million), but also included nearly a million students and exchange visitors and about the same number of "temporary" workers and corporate transferees.

The enormous size of these numbers are suggestive of the magnitude of the problem, but should not be considered exact measures; the INS states of the above numbers, "Inspections data for land passenger traffic are estimates that may contain unspecified margins of error." In other words, the INS does not really know how many people are entering the country.

More manpower and infrastructure. The land crossing points are often not fully staffed, and not every car or truck is examined. Part of the solution here is straightforward — many more inspectors and more inspection lanes at crossing points. Immigrant smuggling through ports of entry, using fake papers, or hiding in secret compartments, was almost completely shut down when security along the borders was tightened in the wake of the September 11 attacks. The problem, of course, was that inadequate staffing and infrastructure caused long waits — but thorough checking plus additional inspectors can equal better security without excessive delay. The reason the United States hasn't had adequate security before is that Congress did not think it was worth spending the money.

This attitude toward border security should have changed in December 1999, when one Ahmed Ressam was stopped by a border inspector at a crossing in Washington state. It turns out that he had trained at bin Laden's terrorist camps in Afghanistan and had a car full of explosives with which he was going to disrupt the Millennium celebrations in Seattle and blow up Los Angeles International Airport. He had entered Canada with a forged passport, requested political asylum, and was released into the population, pending a court date.

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This is standard practice in Canada, and underlines the importance of better border control.

Entry/Exit Tracking System. There is also a long-standing and very real problem that the INS also does not know whether foreign visitors admitted on visas actually leave the country when their visas expire. There is no mechanism for tracking land departures, and the system for tracking arrivals and departures by air, which is how most visa-holders travel, is completely broken. The current system requires foreign visitors to fill out a two-part form with their name, passport number, destination. The visitor then hands one part to the U.S. immigration inspector upon arrival. The other half is collected by the flight attendants on the outbound flight and later transferred to the INS. The opportunities for failure are enormous: airlines often don't collect the forms or forward them to INS; visitors may enter by air but leave by land, leaving no trace of their departure; the information on the paper forms may be improperly keyed in. This system is so dysfunctional that the INS's own statistics division considers any departure data after 1992 to be worthless.

Time limits are pointless without tracking. Temporary visa are only meaningful if we know whether the deadline has been honored. Because we do not collect accurate exit information, we have no way of knowing if someone has left the country. The result of this situation is a list of millions of people who appear not to have left, most of whom really have. Because of this, it is impossible to pick out the actual visa overstayers. As a result, if the FBI asks the INS if a particular individual is in the country, in many cases the INS must respond they simply do not know. In total, there are an estimated three to four million people living in the United States who entered the country legally, but never left, accounting for perhaps 40 percent of the total illegal-alien population.

The bipartisan U.S. Commission on Immigration Reform, headed by the late Barbara Jordan, in 1994 called for computerized tracking of all arrivals and departures by land, sea, and air (including Canadians who don't need visas). Congress, in the 1996 immigration law, directed the INS to develop such a system, but partly at the behest of the business community in border-states, this provision was postponed and in 2000 effectively shelved. The concern was that the system would create interminable traffic jams as people lined up to enter and leave the United States — but a technologically modern system with an adequate number of scanners should not significantly impede traffic at all. This, of course, would mean greatly increased investment in equipment, personnel, and infrastructure at the border as well. For example, where there are now 10 lanes of traffic and inspection stations there may need to be 20 and where there are now 20 lanes there may need to be 40. The only other alternative is to expose the country to unacceptable risk.

Border Patrol is inadequate. The situation isn't much better between the ports of entry. Better screening of visa applicants and a tightly monitored entry-exit system would be almost meaningless if it continues to be easy to cross the border illegally. A serious attempt has been made in recent years to increase the Border Patrol, although the total number of agents there is still only about 9,000 overall, and on any given shift, there are only about 1,700 agents on duty at the southern border or an average of less than one agent per mile. Moreover, there are only a few hundred agents patrolling the entire Canadian border, and this is where terrorists are more likely to enter for a variety of reasons, including the fact that immigrant communities in many Canadian cities provide excellent cover, whereas someone from the Middle East could not blend in so easily on the Mexican border.

A February 2000 report by the Justice Department's Inspector General sheds light on how inadequately the northern border is patrolled. It found that at one 300-mile sector of the border, agents identified 65 smuggling corridors but had only 36 sensors to monitor them. (The report is on line at www.usdoj.gov/oig/i200004/i200004.htm.) Such sensors, designed to detect motion or heat or metallic objects, can be a valuable force-multiplier, but they will not be useful unless there are enough of them to cover the border and enough agents to respond when they are triggered. What's more, the IG report found that in some short-handed sectors, there are times when there are no agents on duty at all, a fact which quickly becomes apparent to various kinds of smugglers and terrorists trying to cross the border.

The answer, of course, is increased personnel and a serious commitment to border security. The Border Patrol has actually increased significantly since the mid-90s, and has been doing a much better job of patrolling the southern border, dramatically reducing illegal crossings near major cities and forcing smugglers to resort to more remote areas, where they are more easily detected. These successes need to be expanded upon while improving coverage of the northern border as well. The Border Patrol could be increased from its

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current total of less than 10,000 up to 30,000 or 40,000 people without even nearing the point of diminishing returns. This cannot be accomplished overnight, however, because it takes time to build a trained and experienced force. Nonetheless, failure to properly police the border between crossing points would be a huge invitation to terrorists rendering all our other efforts at immigration enforcement irrelevant.

Increased Border Patrol is not militarization. Some may object to such measures, and even to the increased border enforcement that has already taken place, as "militarization" of the border. Such objections highlight the important difference between the respective roles of soldiers and law enforcement; soldiers are supposed to find and kill the enemy, while law enforcement agencies, like the Border Patrol (and the Coast Guard), deter or apprehend wrongdoers. Assigning troops to patrol our borders would indeed be a militarization of border enforcement, and should be a very last resort (although using military support capabilities, such as radar and road-building, to assist the Border Patrol is appropriate, even necessary). But the way to avoid militarization is to build up the capacity of the Border Patrol such that there would be no reason to call for troops on the border.

Interior Enforcement

The final layer of effective immigration control lies inside the country. As already discussed, the federal government has no idea whether foreign visitors have left when their visas expire. In addition, it has no idea where foreign citizens live when their visas are still valid.

Tracking tourists and business travelers would be difficult — even in the current environment, it is unrealistic to require all foreign visitors to submit their passports every time they check into a hotel and to expect hotels to report that information. Currently, foreign travelers are required to write down their destination upon entering the United States, but no effort is made to verify the information; in fact, two of the September 11 jihadists listed "Marriott Hotel, New York" as their destination. Resources could be more fruitfully spent elsewhere. Of course, this is why more stringent controls on issuing visas and real-time tracking of visa overstays are so important. But even with better screening and tracking of overstays, if we continue to almost entirely neglect enforcement of immigration law and allow millions of illegals to live in the country, we will also continue to expose our country to very significant terrorists threats. Fortunately there are a number of steps that can be taken to enforce the law within the United States.

Tracking temporary visa holders. Tracking of foreign citizens residing here for extended periods of time, affiliated with some American institution responsible for their whereabouts, is both possible and desirable. It's desirable because these long-term visitors (here from one to six years, or more) reside here for long periods of time in a legal status, whereas short-term visitors are less likely to have the time to hatch sophisticated plots before their visas expire. In our open society, there has been only the most perfunctory oversight of such long-term foreign students and workers — so perfunctory, in fact, that at least one of the September 11 terrorists entered the country on a student visa but never showed up for class, without triggering any concern anywhere.

And although short-term tourists and business travelers, who are not attached to any American institution, make up the majority of non-immigrants, the number of long-term visa holders requiring oversight is still quite large. In 1999, there were more than 923,000 foreign students and exchange visitors admitted (including their spouses and young children), up 45 percent just from 1995. The number of long-term foreign workers, plus family members, was about 1 million in 1999, up 123 percent from 1995. (Because the INS does not carefully track entries and exits, these figures include an unknown number of reentries by the same individual.)

The 1996 immigration law mandated the INS to develop a computerized tracking system for foreign students, to replace the current manual, paper-based system. Unfortunately, the system has not gone beyond the pilot stage, and is only tested in a couple of dozen southeastern schools, largely because of opposition from universities and colleges. Institutions have opposed it, fearing the extra administrative burden associated with such a system. Many also do not like the idea of treating foreign students differently from their American counterparts. But given the very real threats we face, tracking all visitors makes perfect sense.

The problem with the whole foreign students program is not simply one of visa fraud or overstays; the nature of their studies is also a matter of concern. In 1997, the Washington Institute for Near East Policy published a report highlighting the weaknesses in our efforts to prevent students from terrorism-sponsoring states from studying subjects that would benefit those countries' weapons programs. (A summary of the report, "Open Admissions: U.S. Policy Toward

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Students from Terrorism-Supporting Countries in the Middle East," is available on line at http://www.washingtoninstitute.org/pubs/exec/mannexec.htm.) Not only are few students denied visas based on their desired fields of study, but the lack of monitoring allows them to declare their intention to study some innocuous social science, for instance, but then change majors to nuclear engineering or such, without anyone in the government being alerted to this fact.

Tracking system must include non-students. The experimental INS system to track foreign students will almost certainly be accelerated in the wake of September 11. But this will not address the fact that there are an additional million temporary workers and trainees and intra-company transferees who are not included in the system, and they are not effectively tracked by any other means. Expanding the new tracking system to cover both foreign students and foreign workers is needed to ensure the system is as comprehensive as possible.

In a nutshell, to effectively control our border the government needs an integrated system that uses a biometric identifier like a fingerprint to create a single file for each foreign citizen planning to visit the United States, and track that person during the entire process — at each step in the visa process, each land border crossing, each entry and exit at airports, each change in status at school or work, each arrest, each application for government benefits. This file should be accessible to law enforcement and linked to the databases of the FBI, IRS, Social Security, Selective Service, and other federal agencies. There is no other way to keep admitting large numbers of foreign citizens and maintain security as well.

It is important to emphasize that at a time when there is much discussion of curbs on the civil liberties of Americans, better tracking of foreign citizens not only addresses the core of the security problem but should also be especially appealing because it does not effect the civil liberties of any Americans, only guests from overseas whose presence here is a privilege.

Ending Section 245(i). Another change regarding immigrants that would enhance homeland security would be the permanent elimination of a provision in the immigration law known as section "245(i)." This allows illegal aliens on the waiting list for a green card (because, for instance, they have married an American) to undergo visa processing and receive their permanent residence visa without having to leave the country and go to the U.S. consulate in their home country.

This provision is problematic not only because it rewards immigration line-jumpers but also because it compromises homeland security. The INS official who processes the visa in the United States is much less likely to detect a possible terrorist or criminal among applicants than is a consular officer in the alien's home country, who is familiar with the local language and has contacts with local law enforcement. Not only does 245(i) undermine efforts to screen out terrorists, but it also negates our ability to keep out those judged to be dangerous — because they're already here, whereas an alien who went home only to be found ineligible would, in effect, have deported himself.

Enforcing the ban on hiring illegal aliens. The centerpiece of any interior enforcement strategy has to be enforcing the prohibition on hiring illegal aliens. While worksite enforcement, as it is commonly called, may not seem to be vital to national security at first glance, it is in fact critically important to reducing the terrorist threat. In 1986, Congress prohibited the employment of illegal aliens, although enforcement was at first spotty and has been virtually non-existent for the past couple of years. Although it is obviously directed at turning off the magnet of jobs attracting conventional illegal aliens, such worksite enforcement is also important for anti-terrorism efforts. Gaining control of the border between crossing points is probably only possible if we dramatically reduce the number of illegal job seekers who routinely cross into the United States. If prospective illegal aliens knew there was no job waiting for them in the United States, many fewer would try and cross illegally.

In addition, it would be much harder for terrorists who overstay their visas to blend into normal life if finding a job is made much more difficult. Of course, they could still come with wads of cash and some might still live undetected, but doing so would be much harder to pull off if getting a job is much more difficult.

Even if one favors a guestworker program for workers from Mexico or elsewhere as the solution to illegal immigration, it would still be absolutely necessary to put in place a strong work site enforcement regime before implementing a guest worker program. Otherwise, there would be no incentive for those illegals already in the country or those thinking about entering illegally to sign up for such a program.

How would such a system work? Two steps are needed to make worksite enforcement effective. First, a national computerized system that allows employers to verify instantly that a person is legally entitled to work in the United States needs to be implemented.

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Employers would submit the name, date of birth, and Social Security Number (SSN) or alien registration number to the INS of each new hire. Much of this information is already collected on paper, but is not used by the INS. After an instant check of its database, the employers would then receive back from the INS an authorization number indicating that the person is allowed to work in the United States. The authorization number from the INS would provide the employer with an iron-clad defense against the charge that they knowingly hired an illegal alien. Tests of such systems have generally been well received by employers.

Document fraud is, of course, widespread, but a computerized system would be a key tool in uncovering it. For example, a valid SSN that is attached to different names submitted to the INS or a SSN and name that show up in many different employers across the country would both be indications that a worker is trying to skirt the law. The INS could develop procedures to identify potential problems of this kind. When a potential problem is found, the INS would then go out to the employer and examine all the paperwork for the employee, perhaps conduct an interview with the worker and determine the source of the problem. This would require the second important change that is needed: a dramatic increase in the number of worksite inspectors. At present there are only the full-time equivalent of 300 INS inspectors devoted to worksite enforcement, whose job it is to enforce the ban on hiring the 5 or 6 million illegal immigrants now working in the country. These numbers would have to be increased to perhaps 3,000.

These inspectors would perform two main tasks: they would go out to employers identified by the verification system as having a potential problem and secondly they would randomly visit worksites to see that employers were filing the paperwork for each worker as required by law. Those employers found to be knowingly hiring illegals would be made to pay stiff fines. Because the data needed for such a system is already collected and the law already forbids the hiring of illegals, all that is need is a verification system and significantly more resources for worksite inspectors. Failure to develop such a system means that millions of illegal immigrants will continue to work and live in the United State facing little or no penalty. Not only does this make a mockery of the rule of law, it also exposes the country to significant security risks.

Employment verification and alien registration. Most of the recommendations outlined above have dealt with temporary visa holders or efforts to reduce illegal immigration. More effective monitoring is also needed of permanent residents, i.e., legal immigrants, with "green cards," who will after a time become eligible for citizenship. Several past terrorist attackers have been legal immigrants, and that may well increase as a result of military reprisals against terrorists overseas. In 1940, as a homeland security measure, Congress required all non-citizens living in the United States to register annually their whereabouts with the INS. This provision was repealed in the 1980s and should probably not be revived in that form. Potential terrorists cannot be expected to dutifully send in their addresses. However, the employment verification system outlined above could be a very effective tool in locating non-citizen legal immigrants. This is especially important when a person is placed on the watch list after he has entered the country. At present, there is often no way for the INS to know where that individual lives. However, the employment verification process would provide the INS with the employer for non-citizen legal immigrants who work. Thus, if it became necessary to arrest or at least undertake surveillance of a non-citizen, their last known employer would be a place to start. The verification system would in effect be alien registration for most resident aliens.

Integrated databases. One reform that would probably be relatively easy to undertake would be for the INS to integrate all of its various databases. At present, separate databases are maintained for non-immigrants, immigrants, citizenship applications, and deportations. The INS needs to establish a single integrated file on each foreign citizen that uses a biometric identifier like a digital fingerprint. This file would contain information from each step in the visa process: including each land border crossing, each entry and exit at airports, each change in status at school or work, each arrest, as well any application for permanent residence. This file should be accessible to law enforcement and would remain open until the person becomes a citizen.

Cut Permanent & Temporary Visas?

The responses outlined above, whether overseas, at the border, or inside the United States, would not catch all malefactors. But the improvements outlined above would almost certainly be very helpful in alerting us to large conspiracies like the September 11 attacks. If only a few of the dozens of conspirators had been identified by consular officers or border inspectors, it is very likely that the entire conspiracy would have unraveled.

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Less immigration means better enforcement. But what of the actual number of people we admit via these mechanisms? There are two fundamental reasons to consider reducing the number of student, exchange and worker temporary visas, and permanent residence visas: In a world of limited resources, the fewer visas we issue the more thorough the background checks that can be conducted. Moreover, fewer visas also mean fewer foreign nationals living in the United States, making it easier to keep track of those allowed into the country.

It seems very unlikely that the INS and State Department can undertake the necessary reforms and expansions if they also have to continue processing hundreds of thousands of new immigrant, foreign student, exchange and worker visas each year. The General Accounting Office reported in May that the receipt of new applications (green cards, citizenship, temporary workers, etc.) has increased 50 percent over the past six years, while the backlog of unresolved applications has quadrupled to nearly 4 million. Few if any government agencies could be expected to handle such a crush of new work while assuming added responsibilities, even if provided with increased resources. The INS in particular has had a great deal of difficulty in modernizing and using additional resources. Its computer systems, for example, are among the most outdated in any part of the federal government. This stems from a decision in the 1970s not to automate the files so as to preserve low-level clerical jobs. As then-Commissioner Doris Meissner told *Government Executive* magazine in a 1999 interview, "You don't overcome a history like that in four to five years." (The article is on line at http://www.govexec.com/gpp/0299ins.htm.)

Solving the many problems with our immigration system will not be easy. There have been various plans to reorganize the INS altogether, including splitting the service and enforcement functions, either into two agencies or two separate chains of command within the current INS. But money and institutional reorganization won't be enough on their own. The best way to give the INS the breathing room it needs to put its house in order and to address homeland security concerns is to reduce its workload by reducing temporary and permanent immigration.

Conclusion

The fundamental changes in our immigration system proposed above should be an especially attractive option because not only would they be politically popular, but they also would not involve any infringement on the civil rights of American citizens. Americans are going to have to wait in much longer lines at airports and in other public places from now on, it is not too much to ask foreign citizens to do the same.

Some may object to greatly increased screening, interior enforcement and border control because only an tiny fraction of the millions of immigrants and visitors (or non-immigrants) who come to the United States each year represent a security threat. We are, some would say, looking for the proverbial needle in the haystack by focusing on immigration reforms. But this objection makes little sense. All security measures are directed at only the tiny fraction of the population who wish to break the law. Every person who boards an airplane, for example, must pass through a metal detector and have his baggage x-rayed. This is done not because most or many intend to hijack the plane, but rather for the one out of a million who is planning to do so. It is the same with screening immigrants and controlling the border.

To be sure, no steps to reform immigration will catch all those who mean us harm. But a lower level of immigration and dramatic improvements in visa processing and border security could make an enormous difference. If only a few of the dozens of people involved in the September 11 plot had been identified by consular officers or border inspectors, or been apprehended when their visas expired it is very possible that the entire conspiracy would have been uncovered. Persistent terrorists will, of course, continue to probe our immigration system for weaknesses. It is for this reason that we cannot, for example, improve visa processing but leave large sections of our land border undefended. Only a vigorous, well-funded, integrated border management infrastructure which employs the latest technology and enjoys sustained political support can be expected to adapt to the every changing terrorist threat. Moreover, only a well funded and run immigration system will be able to utilize the new information that is expected to result from the added resources that are now being devoted to intelligence gathering. Today's under-funded and fragmented border control system, using out-of-date technology, will certainly not be able to respond to the shifting challenges of the future.

There can be little question that the suggested changes outlined above would cost taxpayers billions of dollars to implement. But the alternative is to expose the country to very significant risks that could be avoided. If we want the American people to continue to support legal immigration, then we must make every effort to reduce the possibility of terrorism in the future.

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